United Nations CCPR/C/AUT/Q/5

International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the fifth periodic report of Austria*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please clarify the status of the Covenant within the domestic legal order. Please report on measures taken to give full effect to Covenant provisions both at the federal and provincial (Länder) levels and provide examples of cases where domestic laws have been interpreted in the light of the Covenant by domestic courts. Please also indicate what procedures are in place, in law and in practice, for the implementation of the Committee's Views under the Optional Protocol.

2. Please indicate what steps have been taken to bring the Austrian Ombudsman Board into compliance with the Paris Principles, in particular regarding the lack of a broad mandate to protect and promote human rights, and the selection and appointment of Board members.

Non-discrimination; equality between men and women; prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20, 26 and 27)

3. With reference to the Committee's previous recommendation (see CCPR/C/AUT/CO/4, para. 8), please provide information on measures taken to amend and harmonize the legal and institutional framework against discrimination, as provided for in the Covenant, throughout the country with a view to ensuring the same level of protection against discrimination on any grounds and to streamlining the many institutions responsible for protection against discrimination.

4. With reference to the Committee's previous recommendation (ibid., para. 20) and the information provided in the State party's report (see CCPR/C/AUT/5, paras. 180–181), please provide information on measures taken to combat (a) the increasing radicalization of extremist groups in the country; (b) any advocacy of racial or religious hatred, anti-Semitism or xenophobia, including political hate speech, in particular against persons of African descent, Muslims, Roma, asylum seekers, refugees and migrants; (c) racist content on the Internet. Please also provide statistical data on racist, ethnically motivated and discriminatory incidents, and measures taken to effectively address them, and indicate whether the State party has adopted a comprehensive national action plan against racism, racial discrimination, xenophobia and related intolerance.

* Adopted by the Committee at its 1113th session (16 March–2 April 2015).

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5. Please report on measures taken to address (a) the disproportionately high number of non-citizens in detention, including pretrial detention; (b) racial profiling and the use of stop-and-search procedures on the basis of appearance, colour, or national or ethnic origin. Please clarify whether the State party has set up an independent body with powers to investigate alleged cases of racial discrimination and racially motivated misconduct by the police, and provide examples of cases (if any) where allegations of racial profiling committed by law enforcement personnel were investigated and punished.

6. Please provide information on measures taken to ensure that persons of African and Latin American origin and Roma have access to public places without distinction of any kind.

7. Please provide updated information on the progress achieved in women's representation in decision-making positions in (a) the public service; (b) the private sector; (c) the National Council; (d) provincial legislative bodies; and (e) political parties.

8. Please provide information on measures taken to combat discrimination against ethnic and linguistic minorities in the labour and housing markets. Please also report on measures taken to enable ethnic minorities to enjoy their own culture and language, and to increase the representation of ethnic minorities and persons with disabilities in political and public life, including in the legislative and executive bodies.

Prohibition of torture and cruel, inhuman or degrading treatment; violence against women, including domestic violence; and treatment of persons deprived of their liberty (arts. 7, 10 and 24)

9. In the light of the Committee's previous recommendation (see CCPR/C/AUT/CO/4, para. 13), please provide detailed information on (a) the number and nature of reported incidents of torture and ill-treatment of detainees, including foreign nationals, disaggregated by age, gender and ethnic origin of victims; (b) the number of investigations and actual convictions; and (c) the types of sentences and sanctions imposed on the perpetrators.

10. Please comment on reports indicating that net beds continue to be used as a measure of restraint in psychiatric and social welfare institutions.

11. Please provide updated information on measures taken to address violence against children and child abuse, including sexual abuse and rape, in particular in children's residential and welfare facilities, and to encourage reporting of such cases. Please also provide statistics on the number of reported cases, the number of investigations and prosecutions initiated, and the number of criminal convictions for such crimes.

12. With reference to the information provided in the State party's report (see CCPR/C/AUT/5, paras. 36–51), please provide further information on measures taken to combat all forms of violence against women, inter alia against migrant and ethnic minority women, including domestic violence, rape and spousal rape. Please also provide updated statistical data, if relevant.

Elimination of slavery and servitude (arts. 8 and 24)

13. Please clarify whether the State party has established a nationwide identification and referral system for victims of trafficking in human beings. Please also provide information on measures taken to ensure that sufficient services, including shelters, are available to men who are victims of trafficking. Please comment on concerns that child victims of prostitution are sometimes treated as offenders rather than victims and receive administrative fines.

Treatment of aliens and right to privacy and family life (arts. 13, 17, 23 and 24)

14. Please clarify whether free counselling by a trained lawyer is available to asylum seekers throughout the entire asylum procedure, including appeals procedures, detention and deportation procedures, and respond to concerns that legal safeguards for asylum seekers, migrants and persons in need of international protection were reduced following the adoption of amendments to the relevant legislation in August 2013. Please also explain the measures taken to ensure that the best interests of separated or unaccompanied children seeking asylum are upheld, and to secure their proper representation.

15. With reference to the Committee's previous recommendation (see CCPR/C/AUT/CO/4, para. 19), please clarify whether the State party now applies more comprehensive criteria in identifying those family members of refugees and beneficiaries of subsidiary protection who qualify for family reunification.

Right to liberty and security of person and treatment of persons deprived of their liberty (arts. 9 and 10)

16. With reference to the information provided in the State party's report (see CCPR/C/AUT/5, paras. 109–110), please provide information on the measures taken to ensure that detention of persons pending deportation is not excessively protracted and that children are not deprived of liberty, except as a measure of last resort, and clarify the procedure in place in cases where deportation cannot be implemented upon expiration of the maximum term of detention provided for by law. Please also provide information on progress achieved in accommodating such persons in centres specifically designed for that purpose and report on the adequacy of the services and material conditions at all current deportation detention centres.

Freedom of conscience and religious belief (arts. 2, 18, 24 and 26)

17. Please provide information on the recent amendments to the 1912 Law on the Recognition of Islamic Religious Communities and respond to concerns that the requirements for registration, including on account of belief and income, violate Muslims' freedom of religion and the principle of non-discrimination.

18. Please provide information on the justifications for the differentiation between the length of substitute civilian service for conscientious objectors and that of military service, in particular indicating whether such differentiation is based on reasonable and objective criteria. Please also indicate whether the State party is considering raising the minimum age for voluntary recruitment into the armed forces to 18 years.

Right to participate in public life (art. 25)

19. With reference to the information provided in the State party's report (ibid., paras. 241– 242), please provide further information on measures taken to ensure that the voting process is fully accessible to all persons with disabilities, and that voting and information thereon is provided in all accessible formats.

Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)

20. Please provide information on the steps taken to disseminate information on the Covenant, and on the submission of the fifth periodic report of the State party and its forthcoming examination by the Committee. Please also provide information on the involvement of representatives of all ethnic and minority groups, the Ombudsman Board, the Human Rights Advisory Council and civil society in the preparatory process.